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GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 30th August 1949

No. LR-2(212)/I.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947) the Central Government is pleased to publish the following interim award of the All India Industrial Tribunal (Bank Disputes), in the industrial dispute regarding interim relief, between certain banking companies and their employees in the United Provinces.

THE ALL-INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES),

ADJUDICATION

BETWEEN

1. The National Bank of India, Ltd.,
2. The Chartered Bank of India, Australia and China,
3. The Allahabad Bank Ltd ,
4. The Punjab National Bank Ltd ,
5. The Central Bank of India, Ltd ,
6. The Hindustan Commercial Bank Ltd.,
7. The Bharat Bank Ltd ,
8. The New Bank of India Ltd.,
9. The Gododia Bank Ltd ,
10. The United Commercial Bank Ltd ,
11. The Hindustan Mercantile Bank Ltd ,
12. Dass Bank Ltd ,
13. The Comilla Banking Corporation Ltd
14. Nath Bank Ltd ,
15. Calcutta National Bank Ltd.,
16. Jwala Bank Ltd ,
17. Nookhali Bank Ltd ,
18. The Sonar Bangla Bank Ltd ,

19. Bank of Behar Ltd ,
20. The Aryan Bank Ltd ,
21. The United Provinces Union Bank Ltd ,
22. The Traders Bank Ltd ,
23. The Bank of Jaipur Ltd ,
24. The Central Calcutta Bank Ltd ,

AND

Their employees

In the matter of an industrial dispute regarding the grant of Interim Relief to employees of Banking Companies in the United Provinces.

PRESENT :

Mr. K. C. Sen, *Chairman*

Mr. J. N. Majumdar, *Member*

APPEARANCES :

Mr J. N. Melnolia for the U P Bank Employees' Union,

Mr K. K. Biswas for the Comilla Banking Corporation Ltd

Mr Aloy Izat for the Allahabad Bank Ltd ,

Mr. A. C. Bhat for the Bank of Behar Ltd ,

Mr R. N. Seth for Banks Nos 1, 2, 4, 6, 7, 11 and 23

Mr B. T. Thakur for the United Commercial Bank Ltd

Messrs. B. N. Khanna and Devtre for the Central Bank of India Ltd ,

Mr. S. K. Sen Gupta for the Nath Bank Ltd

Mr W. D. Grover for the Gadodia Bank Ltd

AWARD

PART I

These proceedings have been necessitated owing to an industrial dispute between 40 Banks in the United Provinces and their employees which arose in 1946 and which was originally referred by the Government of the United Provinces to the adjudication of the late Mr. B. B. Singh, I.C.S., the then Labour Commissioner of the Province, under rule 81A of the Defence of India Rules. Thirteen specific issues were referred by the Provincial Government to Mr. Singh, two of which are relevant to the present proceedings, viz., (1) What should be the minimum salary and grade for different categories of bank employees, (a) clerks, cashiers, and money testers (b) peons and chowkidars, and (c) head clerks, supervisors and departmental in-charges? and (2) What dearness allowance should be given to (a) clerks, cashiers, and money-testers, and (b) peon and chowkidar? His decisions on these issues were as following:—

Scales of pay—

(A) Clerks, cashiers and money testers.

Class 'A' Banks—

(1) Upper grade (for graduates) Rs. 75—5—120—E.B.—8—200,

(2) Lower grade (for under-graduates) Rs. 60—1—100—E.B.
5—150,

Class 'B' Banks—

- (1) Upper grade (for graduates) Rs. 60—4—100—E.B.—5—150,
- (2) Lower grade (for under-graduates) Rs. 60—3—90—4—110,

Class 'C' Banks—

- (1) Upper grade (for graduates) Rs. 60—3—90—4—110,
- (2) Lower grade (for under-graduates) Rs. 50—2—60—3—75.

(B) Peons and chowkidars—

Class 'A' Banks—Rs. 25—1—35,

Class 'B' Banks—Rs. 25— $\frac{1}{2}$ —30,

Class 'C' Banks—Rs. 20— $\frac{1}{2}$ —25.

(C) Head clerks, supervisors and Departmental in-charges—

'A' Class Banks—Rs. 120—8—200—10—300,

'B' Class Banks—Rs. 75—5—120—8—200,

'C' Class Banks—Rs. 75—5—120—6—150.

Dearness allowance—

'A' Class Banks—30 per cent. of basic salary with a minimum of Rs. 25 and a maximum of Rs. 50 per mensem,

'B' Class Banks—25 per cent. of basic salary with a minimum of Rs. 20 and a maximum of Rs. 37·8 per mensem,

'C' Class Banks—25 per cent. of basic salary with a minimum of Rs. 18 and a maximum of Rs. 27·8 per mensem,

Peons and chowkidars—a uniform rate of 16 per mensem.

This award was made on the 11th March 1947. By an order dated the 15th March 1947 the Provincial Government made an order enforcing the award and declaring it to be binding on the parties for a period of six months in the first instance. By later orders the life of the said award has been further extended.

2. Soon after the award had been made difficulties began to arise between the parties as to its interpretation and implementation. The local Government and the Labour Commissioner had to issue orders from time to time to clarify parts of the award and some of the Banks accepted them while others did not. Matters came to such a pass that the local Government launched prosecutions against some officials of certain Banks. On the 31st July 1948 the local Government appointed a Conciliation Board under sec. 3 of the United Provinces Industrial Disputes Act, 1947 (No. XVIII of 1947), consisting of Mr. R. S. Nimbkar as the Chairman, Messrs. H. C. Captain and B. T. Thakur of the Central Bank and the United Commercial Bank Ltd. respectively and two other members representing the employees. Mr. Nimbkar died in October 1948, after which Mr. Justice Bind Basni Prasad of the Allahabad High Court was appointed in his place. The Board drew up 106 specific issues one of which, *viz.*, No. 39, was as follows: "Whether the rate of dearness allowance, recommended in the Award, should be revised? If so, what should be the rate? Should it be related to the Kanpur cost of living index?" Out of the 106 issues 64 were concerned with questions of clarification of Mr. Singh's award and the remaining 42 with matters regarding which a revision of the said award was demanded

by one or the other of the parties. By an order dated the 15th February 1948 the U.P. Government required the Board to submit an interim report relating to the issues as to clarification only. Accordingly a report was submitted on the 17th February 1949 as to the 64 issues of this character, but issue No. 39 not being an issue as to clarification of the award was not enquired into by the Board. The report was signed by the Chairman, and Messrs. Captain and Thakur agreed with him as regards his findings on certain issues and disagreed with him as to the remaining issues. They submitted a separate report of their own to the Provincial Government. The other two members, Messrs. Tiwari and Arora, agreed with the Chairman in his findings on the majority of the issues and partially agreed with his findings on certain other issues. On the 18th April 1949 the Chairman's report was published and the Banks concerned were asked to comply with the terms of the said report. On the 30th April 1949 the Central Government promulgated the Industrial Disputes (Banking and Insurance Companies) Ordinance (No. VI of 1949). On the 13th June 1949 the Central Government constituted this Industrial Tribunal for adjudication of industrial disputes in banking companies and on the same day issued an order referring to it a dispute between the banking companies mentioned in Schedule I thereto in respect of matters specified in Schedule II thereto annexed. Items 1 and 3 of the said Schedule II are respectively as regards scales of pay and dearness allowance. On the 22nd May 1949 the employees of most of the Banks in the United Provinces served on their respective managements notices of a strike to be held on the 21st June 1949 in case the demands made by them were not satisfied. Along with other demands the said employees put forward a claim for interim relief. On the 17th and the 18th June 1949 a conference was held by the Chief Labour Commissioner (Central) at Patna at which representatives of the Banks and of the U.P. Bank Employees' Union were present. The employees' representatives first said that they would not agree to the terms suggested by the Chief Labour Commissioner (Central), and later on agreed to the following:—

- (1) that a recommendation should be made to Government to request this Tribunal to take up the point of Interim Relief to the U.P. Bank employees to be decided by the said Tribunal within a month;
- (2) that the parties would maintain *status quo* as provided by law;
- (3) that in the case of Head Cashiers, Chief Cashiers and Treasurers' representatives, they would get Rs. 10 per month more than what they are getting plus Rs. 10 per month for every additional cashier under such an employee; and
- (4) that the Bank employees would not resort to any strike pending adjudication regarding the Interim Relief.

Accordingly, by a letter dated the 6th July 1949 the Central Government have sent a copy of the report of the said Conference for information and such action as the Tribunal may consider appropriate.

3. Of the 40 Banks dealt with in Mr. B. B. Singh's award and by the Conciliation Board 16 Banks have no branches or other establishments outside, the United Provinces and, therefore, the dispute relating to those 16 Banks must be regarded as outside the jurisdiction of this Tribunal, because the Government notification dated the 13th June 1949 restricts our jurisdiction to industrial disputes in "banking companies", and the expression banking company means, under clause (bb) of section 2 of the Industrial Disputes Act 1947 as amended by the Industrial Disputes (Banking and Insurance Companies)

Ordinance, 1949, "a banking company as defined in section 5 of the Banking Companies Act, 1949 (No. X of 1949) having branches or other establishments in more than one Province and includes the Imperial Bank of India". Notices were accordingly, issued to the remaining 24 Banks with the dispute of which this Tribunal is empowered to deal and the following Banks appeared before the Tribunal in its proceedings held on the 4th and the 5th August 1949 at Lucknow.—

- (1) The Comilla Banking Corporation Ltd.,
- (2) Allahabad Bank Ltd.,
- (3) Bank of Behar Ltd.,
- (4) Punjab National Bank Ltd.,
- (5) The Bharat Bank Ltd.,
- (6) Hindustan Mercantile Bank Ltd.,
- (7) United Commercial Bank Ltd.,
- (8) Hindustan Commercial Bank Ltd.,
- (9) The Chartered Bank of India, Australia and China,
- (10) The National Bank of India Ltd.,
- (11) The Bank of Jaipur Ltd.,
- (12) The Central Bank of India Ltd.,
- (13) Central Calcutta Bank Ltd.,
- (14) Nath Bank Ltd.,
- (15) Gadodia Bank Ltd.,

Shortly before the proceedings commenced a telegram was received from Central Government to the effect that Mr. S. P. Varma, one of the Members of the Tribunal, was going to resign, and he was, therefore, absent at Lucknow. The Chairman and the other Member (Mr. J. N. Majumdar) who were present found that Mr. Varma's absence could be regarded as a casual vacancy within the meaning of rule 12 of the Industrial Disputes (Central) Rules 1947, and on the parties being asked whether they had any objection to the Tribunal's acting in the absence of Mr. Varma, they gave a written statement intimating their consent as required by the said rule.

4. The statement of the claims of the employees is to the effect that at the date of Mr. Singh's award (March 1947) the cost of living index figure in the United Provinces was about 390 whereas a few months ago it went up to 550, that this excessive increase in the cost of living has caused great hardship to the employees, that the Conciliation Board would have revised the award of Mr. Singh but for the action of the United Provinces Government in asking that only issues as to clarification should be decided, that the emoluments of the employees of the Banks in the United Provinces are generally lower than those in other provinces, that certain Banks which have branches outside the province have increased such emoluments for the employees working in such branches, though they have not done so in their establishments and branches within the province, and that the Tribunal should give an interim relief at the flat rate of Rs. 50 per month to every employee exclusive of his present emoluments, with retrospective effect from August 1948. It will be noticed that in this statement the demand regarding Head Cashiers, Chief cashiers and Treasurers' representatives which was made at the Conference at Patna in June last, has been dropped. For other reasons also we do not think that the said demand is a fit subject for enquiry in an *ad interim* adjudication such as the present. Mr. Singh in his award did not use any of the nomenclatures Head cashier, Chief cashier or Treasurers' representatives in the grades fixed by him,

and we think that the task of ascertaining in which grade such employees should be placed ought properly to be tackled in the main enquiry before the Tribunal and not in the present proceedings.

5. The demand for a flat increase of Rs. 50 over the present emoluments is based largely, if not wholly, on the argument that the cost of living index number has increased very greatly since March 1947. As such the demand should, in our opinion, be regarded as a demand for increase over the dearness allowance allowed by Mr. Singh in his award. The representatives of the Union, however, have argued that the demand is justified by other grounds also, for instance, demands in respect of the employees' children and for house-rent allowance which were not granted by Mr. Singh; one other ground being that an increase in the emoluments has been granted by several Banks in respect of branches situated outside the province. They have also referred to the great delay that has been caused in deciding the matter by preventing the Conciliation Board from going into the question. There may be something in these arguments but we are satisfied that the present dispute before us is essentially a demand for increase in the dearness allowance granted by Mr. Singh and we shall treat it as such.

6. On behalf of the Banks it has been contended that as the Tribunal is shortly going to inquire exhaustively and comprehensively into a number of questions relating to the dispute between the Banks and their employees including the question of dearness allowance, there is no special urgency in the issue now sought to be raised, particularly as it is undesirable to have piecemeal adjudications of the nature demanded, and that if interim relief as asked for is now granted by the Tribunal it would give rise to similar demands from other provinces also. The spokesmen for the Banks have also stressed the fact that the scales of pay and dearness allowance to which the employees of the Provincial Government are entitled are not higher but lower than what the Bank employees are getting under the award. The grades of pay of the clerical establishment in the Government offices in the United Provinces will be found set out in paragraph 10 of Mr. Singh's award; in particular, it is pointed out that whereas under the award as modified by the report of the Conciliation Board a Bank employee is entitled to an overtime allowance in accordance with the provisions of the United Provinces Shops and Commercial Establishments Act 1947, no such allowance is admissible to Government servants. It has also been stated that as a matter of fact most of the Banks concerned have actually been giving more basic pay or dearness allowance or both than that directed by the award, and that in a large number of cases regular annual bonuses are being paid to the employees owing to the increased cost of living, although in some instances it has not been possible to pay the shareholders any dividends in recent years. Instances of such payments in excess of the award have been cited before us in the case of the Bharat Bank Ltd., the Central Bank of India Ltd., the National Bank of India Ltd., the Punjab National Bank, the Allahabad Bank Ltd. and the United Commercial Bank. All the Banks, it has further been pointed out, are suffering from decreased deposits and consequently decreased profits, while their wage-bills have been progressively increasing in recent years. It has been strenuously contended that without going into the question of the Banks' capacity to pay, a question which will have to be gone into at the time of the main proceedings of the Tribunal, it would be improper to give any increase on the employees' present emoluments in these proceedings, particularly as it would be very difficult to recover any part of such increase, should it be ultimately found that excessive emoluments have been granted in the present proceedings. On enquiry we have found that a very large number of employees have been taking advances from their provident fund accounts and that it would not be feasible

in every case, if ultimately a refund out of any emoluments that may be now granted is to be made, to direct that the employees' shares of the contributions to the provident funds should be used as security for the said purpose. Lastly, certain Banks have raised the question whether the U. P. Bank Employees' Union can be regarded as representative of the general body of Bank employees throughout the province.

7. Taking the last question first, we find that throughout the proceedings since 1946 the said Union has been treated both by Mr. Singh and the Conciliation Board as well as by the Provincial Government as an important Union. It seems that the said Union was allowed to argue the case on behalf of the employees before Mr. Singh as well as before the Conciliation Board. The Board has stated that on behalf of the employees written statements were filed by the U. P. Bank Employees' Union as well as by some branches of the said Union. 26 representatives of the employees attended the proceedings before the Board and all of them were members of the said Union; and the Board has recorded the fact that no employee repudiated the representative character of the Union. In the present proceedings we do not think it necessary or expedient to go into the question whether the Union represents the majority of the employees in the province, and we have regarded their arguments and representations as those made on behalf of the whole body of the Bank employees of the province.

8. The employees can succeed in their demand for interim relief only if they can show that the cost of living has gone up so greatly since the date of Mr. Singh's award that it is imperative at the present stage that the Tribunal should give them immediate relief without waiting for the final adjudication. We have tried to get the cost of living index figures for the United Provinces but neither party has been able to procure them. The cost of living index figures for the whole of India used to be compiled sometime ago but it is not clear if they are published now. The only place in the province relating to which we find that the cost of living index figures have been published regularly is Kanpur. At page 185 (paragraph 136) of the First Report of the United Provinces Labour Enquiry Committee it is stated, "The dearness allowances in the United Provinces are at present worked out on the basis of the Kanpur cost of living index." A question arises whether the figures for Kanpur may be taken as roughly representing the cost of living index figures for the whole province. In our opinion it would, on the whole, be safe to regard the Kanpur figures as fairly representing the cost of living, and the increases therein, at the following big towns of the province, viz., Lucknow, Agra, Meerut, Bareilly, Kanpur, Banaras and Gorakhpur. The cost of living indices for these towns from 1939 to 1947 are to be found at pages 546 to 552 of the First Report of the United Provinces Labour Enquiry Committee, 1946-48. For other places the increase in the cost of living since March 1947 will appear to be, and in our opinion may be taken to be, somewhat lower. At pages 222-23 of the said Report the industrial units, excluding banks, in the province have been divided into three categories for the purposes of granting dearness allowance. For the purposes of the present proceedings, however, we think that the two categories we have indicated would suffice namely, the seven cities named above and all other places in the province with the proviso that for purposes of dearness allowance non-scheduled Banks and Branches which have been incurring losses during the last two or three years should be placed in the lower category, wherever they may be situated. The published figures of cost of living indices for Kanpur are for "working classes"; and though the majority of Bank employees belong to what are known as the middle classes, we think that no great injustice would be done if we rely in these proceedings on the said published figures. In March 1947 the cost of living index figure for Kanpur was 341, the average for the year being 378. In

September 1948 the index figure rose up to 558. Thereafter there has been a decline and in April 1949 it was 468, after which there has been some increase in May (487) and June (487). In our opinion it can be very well presumed that when Mr. Singh made his award he did not exclude the possibility of the cost of living index figure going up to a somewhat higher figure than 541. As the average for the year was 378 we may take 380 as roughly representing the maximum figure up to which the dearness allowance recommended by Mr. Singh was intended to apply. For 1949 we have got the cost of living indices for only half the year, but we may, we think, for our purposes take a figure like 475 as sufficiently representative of the cost of living for the whole year. The interim relief, if any, to be granted would of course be meant to remain operative only for the next few months. The figure 380 which we have taken for the year 1947 represents an increase of 280 points over the basic figure of 100, so that it can be said that what was recommended as dearness allowance by Mr. Singh corresponds to a rise of 280 points over the 1939 level. Similarly the figure 475 which we have taken as representing the cost of living for 1949 represents an increase of 375 over the basic 100. The increase, therefore, in 1949 over the post-1939 rise in the cost of living attained at the time of the award would roughly be 33½ per cent. This appears to be so substantial an increase that in our opinion some immediate relief to the employees is called for, the necessity for such relief outweighing the considerations that have been urged on behalf of the Banks. This is indicated further by the fact, which was admitted, that there have been a very large number of withdrawals by employees from their provident fund accounts. We, therefore, award an increase of 33½ per cent. over the dearness allowance which the employees are entitled to draw under Mr. Singh's award in the case of Banks situated in the seven cities of Lucknow, Agra, Meerut, Bareilly, Kanpur, Banaras and Gorakhpur. From this rule we would except the non-scheduled Banks and Banks whose balance-sheets, which have been audited by duly qualified auditors, show a loss for the last 2 years. For such Banks as well as for Banks situated in places other than the seven cities named above we award an increase of 25 per cent. over the dearness allowance allowed under Mr. Singh's award would be justified. From this increase certain deductions will have to be made, viz., any increase over the basic pay or dearness allowance fixed by Mr. Singh's award which has been paid by any Bank, and, where a Bank has not paid any dividend to its shareholders in 1949, any bonus which has been paid to the employees, in respect of the period covered by the present Award, or any part thereof; in the latter case it can be presumed that the bonus has been given mainly with the object of alleviating the sufferings of the employees due to the increased cost of living. Finally, we would direct that in applying the above rules the maxima and minima laid down in paragraph 17 of Mr. Singh's award should be disregarded and that any employee who has been receiving higher pay or pay in a better grade or higher allowances, than are now awarded should continue to receive the same.

9. The next question that arises is with effect from what date should the increased emoluments now directed to be paid be given? The Union has asked for retrospective effect of our award from August 1948. The Banks, however, have contended that as this is an interim award it should operate with effect from the date of the reference made by the Central Government. The dispute as to interim relief, however, has been in existence for a considerable time, but in view of the fact that our directions are of a tentative character and are liable to be modified in our final award, we think that we should be justified if we made our directions operative with effect from the 1st January 1949, and we direct accordingly. We further direct that the arrears of pay and dearness allowance due under this award up to the date on which it comes into operation shall be paid within two months from such date.

10. At the hearing we were informed by the employees that some 12 Banks which have branches or head offices in the province had not been given notices of these proceedings. Their names are: 1. Bank of Baroda, Ltd., 2. The Bank of Sirmur, 3. The Punjab and Sindh Bank Ltd., 4. The Hind Bank Ltd., 5. Habib Bank Ltd., 6. Narang Bank Ltd., 7. Bank of Bikaner Ltd., 8. Comilla Union Bank Ltd., 9. Oriental Bank of Commerce, 10. Prabhat Bank Ltd., 11. National Savings Bank Ltd., and 12. Banaras State Bank Ltd. None of these Banks was a party to the adjudication proceedings before Mr. Singh or to the proceedings before the Conciliation Board. We think that we have jurisdiction to deal with the dispute regarding interim relief as to those Banks also and, accordingly, while we propose to confine the award given in this part (Part I) to the Banks already on the record and their employees, we propose to issue fresh notices to the 12 new Banks mentioned above as well as to their employees and decide the question of interim relief as regards such Banks as early as possible. The award in respect of such Banks will form part II of this award.

(Sd.) K. C. SEN, Chairman,

Bombay, 25th August 1949

(Sd.) J. N. MAJUMDAR, Member.

ORDER

New Delhi, the 30th August 1949

LR-2(212)/II.—Whereas by an Order of the Central Government in the Ministry of Labour No. LR-2(212), dated the 13th June 1949, the industrial dispute between banking companies and their employees was referred to the All India Industrial Tribunal (Bank Disputes) for adjudication;

And whereas the interim award of the said Tribunal regarding the grant of interim relief to employees of Banking Companies in the United Provinces has been published by the Central Government in a notification of the Ministry of Labour No. LR-2(212)/I, dated the 30th August 1949;

Now, therefore in exercise of the powers conferred by sections 15 and 19 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to direct that the said interim award shall be binding for a period of one year from the 25th August 1949 or till the final award in respect of the dispute is accepted by the Government, whichever is earlier

K. N. SUBRAMANIAN, Jt. Secy.

